

EXHIBIT U

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January 20, 2021

Via E-mail

Michael J. Melkersen, Esq.,
Melkersen Law Group, LLC,
5 Surfside Road – Palmas Del Mar,
Humacao, Puerto Rico 00791.

Re: *Garcia, et al. v. Volkswagen Group of America, Inc., et al.*,
Case No. 1:19-cv-331-LO-MSN

Dear Mike:

On behalf of Volkswagen Group of America, Inc. (“VWGoA”) and Volkswagen Aktiengesellschaft (“VW AG”), I write in further response to inquiries you have raised regarding the status of certain Requests for Production.

As you are aware, VWGoA’s review and production of responsive documents is ongoing, and VWGoA is continuing to determine appropriate data sources and repositories for easily segregable documents. VWGoA’s positions with respect to the RFPs that you have specifically inquired about are as follows:

- **RFP No. 17.** VWGoA does not agree that non-privileged documents responsive to this request are easily segregable, and notes that Plaintiffs have not articulated why documents responsive to this request are relevant. In any event, as explained in our October 1, 2020 letter, VWGoA has proposed and ran a search string to correspond with this request, and has reviewed and produced documents resulting from that search.
- **RFP No. 22.** VWGoA produced form settlement agreements in its Production Volume 012, and will produce another form settlement agreement in its upcoming Production Volume 013.
- **RFP Nos. 24, 32-35.** VWGoA produced easily segregable documents responsive to these requests in its Production Volumes 001 and 012. VWGoA is continuing to determine whether additional responsive materials are

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reasonably accessible and available, and will produce any additional responsive materials as soon as they are obtained.

- **RFP No. 26.** VWGoA believes that documents sought by this request are held centrally by VW AG, and are not stored or kept in the ordinary course by VWGoA. VW AG is considering the corresponding RFP No. 26 directed to it and will respond separately.
- **RFP No. 27.** VWGoA notes again that this request asks for public information that is accessible to Plaintiffs. Nevertheless, VWGoA states that the only lawsuit responsive to RFP No. 27 of which it is aware is *James Renwick v. Mission Volkswagen, Inc. et al.*, Case No. 30-2019-01057920-CU-FR-CJC (Cal. Super. Ct. Orange Cty).
- **RFP No. 42.** VWGoA produced in its Production Volume 001 organizational charts for its Corporate Vehicle Services department, which are responsive to this request.
- **RFP No. 45.** VWGoA has provided information responsive to this request as a part of Exhibit A to Volkswagen Group of America, Inc.'s Responses and Objections to Plaintiff Ricardo R. Garcia's First Set of Interrogatories. VWGoA also anticipates producing PAR data shortly, which are responsive to this request. VWGoA is evaluating whether additional documents responsive to this request are reasonably accessible and available, and will produce any additional responsive materials as soon as they are obtained.
- **RFP Nos. 50-52.** VWGoA believes that documents sought by this request are held centrally by VW AG, and are not stored or kept in the ordinary course by VWGoA. VW AG is considering the corresponding RFP Nos. 41-43 directed to it and will respond separately.
- **RFP Nos. 53-54.** VWGoA states that these requests seek information that is not relevant to the asserted claims in this action, given that they request information about vehicles that are not part of the putative class as defined by ¶ 105 of the Second Amended Complaint. VWGoA also notes that Exhibit A to Volkswagen Group of America, Inc.'s Responses and Objections to Plaintiff Ricardo R. Garcia's First Set of Interrogatories disclosed the pre-production vehicles in the putative class.
- **RFP No. 55.** VWGoA is considering the request made in your December 8, 2020 email regarding FITS data.

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- **RFP No. 60.** VWGoA is continuing to determine whether responsive materials are reasonably accessible and available, and will produce any additional responsive materials as soon as they are obtained. Please note that VW AG produced documents responsive to this request in its Production Volume 001.
- **RFP No. 61.** VWGoA has no documents responsive to this request.
- **RFP No. 63.** VWGoA produced documents responsive to this request in its Production Volume 001. VWGoA is continuing to determine whether additional responsive materials are reasonably accessible and available, and will produce any additional responsive materials as soon as they are obtained.
- **RFP No. 64.** VWGoA does not have documents responsive to RFP No. 64, as it does not alter vehicles in the manner described in ¶ 31 of the Second Amended Complaint. VWGoA also notes that vehicles subject to the September 2020 recall referenced in your November 3 letter are not class vehicles as defined by ¶ 105 of the Second Amended Complaint.
- **RFP No. 65.** Your November 3 letter asserts, without any factual or legal support, that vehicles for which emissions-exempt compliance labels were tracked somehow “cannot be legally sold to consumers.” This is incorrect, and Plaintiffs have yet to articulate any reason why documents related to emissions compliance are relevant to this litigation. VWGoA notes that Plaintiffs make no allegations and bring no claims regarding the emissions compliance of the vehicles in the putative class.
- **RFP Nos. 73-75, 78.** VWGoA does not agree that its ESI searches are insufficient to respond to these requests, and notes that it has proposed and ran a search string to correspond with this request, and has reviewed and produced documents resulting from that search. Further, VWGoA’s Production Volume 010 contained materials responsive to these requests. *See, e.g.,* VWGoA-Garcia-00275016.
- **RFP No. 80.** VWGoA does not agree that its ESI searches are insufficient to respond to this request, and notes that it has proposed and ran a search string to correspond with this request, and has reviewed and produced documents resulting from that search.
- **RFP No. 81.** VWGoA states that it has not identified any documents responsive to this request.

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- **RFP Nos. 84-85.** VWGoA anticipates producing documents responsive to this request shortly in an upcoming production.
- **RFP No. 87.** As we have discussed, the Daisy/COPS system is maintained and controlled by VW AG. VW AG produced materials from this system corresponding to the Named Plaintiffs' vehicles in its Production Volume 001.
- **RFPs Nos. 90-94.** Defendants are continuing to review and produce documents responsive to Plaintiffs' numerous discovery requests, including documents relating to their affirmative defenses, and are not withholding such documents from production.
- **RFP No. 95.** VWGoA is conducting searches of its LISTEN database, which maintains reports of calls from consumers, and will produce documents from that database that are responsive to this request, if any.
- **RFP Nos. 100 & 115.** VWGoA agrees to produce VWGoA financial data responsive to RFP No. 115. However, VWGoA does not agree to produce its tax returns in response to RFP No. 100. Under the law in this District, production of tax returns requires not only a showing of relevance to the subject matter of the litigation, but also that the information sought from the returns is not readily obtainable from other sources. *See E. Auto Distributors, Inc. v. Peugeot Motors of Am., Inc.*, 96 F.R.D. 147, 148-49 (E.D. Va. 1982). VWGoA believes that documents VWGoA produces for RFP No. 115 should provide sufficient financial information for Plaintiffs.
- **RFP Nos. 101-102:** VWGoA agrees to produce payment information responsive to these requests.
- **RFP No. 103.** VWGoA produced material responsive to this request in its Production Volume 009.
- **RFP No. 104.** VWGoA produced documents responsive to this request in its Production Volume 009.
- **RFP No. 105.** VWGoA produced documents responsive to this request in its Production Volumes 001 and 009. VWGoA is continuing to determine whether additional responsive materials are reasonably accessible and available, and will produce any additional responsive materials as soon as they are obtained.
- **RFP No. 106.** VWGoA is continuing to determine what responsive materials are reasonably accessible and available, and will produce these materials as

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soon as they are obtained. VWGoA notes that advertising materials responsive to this request are publicly available.

- **RFP Nos. 110, 111, 113.** VWGoA's Production Volume 010 contained materials responsive to these requests identified through VWGoA's ESI searches. *See, e.g.*, VWGoA-Garcia-00289024, VWGoA-Garcia-00284783, and VWGoA-Garcia-00277322.
- **RFP No. 112.** Although Plaintiffs have yet to articulate the relevance of these documents, VWGoA agrees to provide responsive documents for the dealerships that sold the Named Plaintiffs' vehicles.

As stated in my letter of December 19, 2020, VWGoA has proposed and ran search strings to correspond with the following RFPs, and has reviewed and produced documents resulting from those searches: 12, 21, 41, 43, 46, 48, 49, 53, 54, 57, 86, 88, and 89. Finally, as reflected by our email correspondence from November 13, 2020 and your November 19 reply, the parties have reached agreement regarding the search strings to be used for RFP Nos. 14, 16, and 99.

* * *

We are available to meet-and-confer on these and any other discovery issues.

Sincerely,

/s/ Suhana S. Han

Suhana S. Han

cc: Counsel of record